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October 28, 2021

VIA ECF

Hon. Paul G. Gardephe
United States District Judge
United States District Court for the Southern District of New York
40 Foley Square, Courtroom 705
New York, New York 10007

Re: Justin Franco v. American Airlines, Inc., Case No. 21-cv-05918-PGG
Joint Letter in Advance of November 4, 2021 Initial Pre-Trial Conference

Your Honor:

Pursuant to the Court's Notice of Pretrial Conference in the above-referenced action, counsel for Plaintiff Justin Franco ("Plaintiff") and counsel for Defendant American Airlines, Inc. ("American") write jointly in advance of the initial pretrial conference scheduled before Your Honor on November 4, 2021 at 10:30 a.m. In light of the Court's referral of this action to mediation (Dkt. No. 15), counsel for the Parties respectfully request that the Court adjourn the conference to a date and time after the parties have completed mediation that is convenient to the Court. To that end, the counsel for the Parties propose to submit a status report to the Court within two weeks of the mediation to advise the Court of any progress made toward a resolution. If the Court denies the request for an adjournment, counsel for the Parties respectfully request that counsel be permitted to appear for the November 4, 2021 conference by remote means, either via telephone or videoconference platform. Additionally, to the extent the Court denies the request for an adjournment, the parties also submit herewith the jointly proposed Case Management Plan. If the Court adjourns the conference, counsel for the Parties propose to submit a new jointly proposed Case Management Plan to the Court one week prior to the adjourned-to conference date.

I. Brief Description of the Case

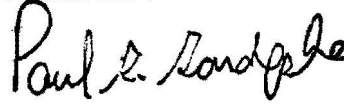
Plaintiff's Description

Plaintiff, who is Latino, specifically Guatemalan, was employed by American from 2013 until his unlawful termination in 2020. Beginning in 2019, after American's hiring of Plaintiff's out-of-state counterpart, Plaintiff's then-supervisor repeatedly treated Plaintiff less well than his Caucasian colleagues by, *inter alia*, allowing Plaintiff's counterpart to use an elevated professional title despite Plaintiff holding the same position at American, allowing Plaintiff's counterpart to engage publicly with media while simultaneously barring Plaintiff from doing so, and forcing Plaintiff to report to his Caucasian counterpart despite their positions being laterally ranked to one another. When Plaintiff

MEMO ENDORSED:

The application is granted. The initial pretrial conference scheduled for November 4, 2021 is adjourned to **February 17, 2022** at 11:00 a.m.

SO ORDERED.



Paul G. Gardephe
United States District Judge

Dated: November 3, 2021

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complained about the unfair treatment, American responded by scolding Plaintiff, issuing overly and unfairly criticizing Plaintiff, and placing Plaintiff on a "final written warning" despite the fact that Plaintiff had not received any prior warnings or counseling. After Plaintiff complained about discrimination and retaliation to American's HR department, HR failed to substantively respond to Plaintiff's complaints and closed the file after an unusually short investigation. In May of 2020, Plaintiff submitted a request for a medical leave due to the depression, anxiety, and panic attacks he experienced caused by the toxic work environment he endured. In response, roughly five (5) days after submitting his request for leave, American terminated Plaintiff's employment.

Based on the foregoing, Plaintiff brings this action under Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, and the New York City Human Rights Law alleging that American discriminated against Plaintiff on the basis of his race and national origin (Latino/Guatemalan) and retaliated against him in response to his lawful complaints of discrimination. Plaintiff further brings this action under the Family and Medical Leave Act alleging that American retaliated against Plaintiff following his request for a medical leave caused by the hostile work environment he was subjected to.

American's Description

American disputes Plaintiff's claims in their entirety. Plaintiff had a documented history of poor decision-making, performance deficiencies, and unprofessional behavior, which Plaintiff's managers attempted to address with Plaintiff during his employment with American, without success. Plaintiff's employment with American was terminated based on Plaintiff's poor performance and unprofessional behavior. Neither the termination decision, nor any other decision regarding Plaintiff's employment with American, was based on Plaintiff's membership in any protected class, any purported protected activity, or any other impermissible factor.

II. Anticipated Motions.

Plaintiff's Position

Plaintiff does not anticipate filing any motions at this time.

American's Position

American anticipates filing a fully dispositive summary judgment motion at the conclusion of discovery.

III. Prospect for Settlement.

Plaintiff's Position

Plaintiff maintains that the evidence in this matter will support his allegations and the issues in this matter cannot properly be determined by motion but is prime for a jury's determination. In addition, Plaintiff maintains that there is significant discovery to be conducted in this matter and estimates that it will be difficult to reach a resolution without the exchange of, at a minimum, written discovery. Therefore, Plaintiff believes that the prospect of settlement at this procedural point in the case is low. However, Plaintiff is fully prepared to participate in the court ordered mediation of this matter in good faith.

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American's Position

As discussed above, American acted at all times in compliance with the law and anticipates prevailing on a motion for summary judgment at the close of discovery. Accordingly, American believes the prospect for settlement is low. However, American is prepared to participate in the mediation in good faith.

Respectfully submitted,

/s/ Melissa C. Rodriguez

Melissa C. Rodriguez

Attorney for Defendant

/s/ Gabrielle M. Vinci

Gabrielle M. Vinci

Attorney for Plaintiff

Enclosure

c: All Counsel of Record (via ECF)